IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 13778 of 2005

Between:

Talupula Venkata Siva Rao @ Siva Rao, S/o.Krishna Murthy,
R/o.Nandimandalam Village, Pendlimarri Mandal, Kadapa district.

..... PETITIONER

AND

1 The Joint Collector, Kadapa,Kadapa district
2 The Mandal Revenue Officer, Pendlimarri Mandal, Kadapa district.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction declaring the proceedings of the 1st respondent herein Ref.No.I(2)/3485/2005, dt.09-03-2005 through which he refused to order to pay the sale proceeds as provided under Section 6 (A))(3)(C) of the Essential Commodities Act, 1955 as arbitrary, illegal, contrary to provisions of Section 6 (A)(3)(C) of the Essential Commodities Act, 1955 and violative of the Fundamental Rights guaranteed to the petitioner under Articles 14, 19 and 21 of the Constitution of India and consequently direct the respondents to pay the sale proceeds with regard to the rice has been confiscated through the proceedings of the 1st respondent in Ref.No.I(2)/3485/2002, dt. 03.10.2002 and pass.

Counsel for the Petitioner: MR.V.R.REDDY KOVVURI

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

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ORAL ORDER

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

By the impugned proceedings of the 1st respondent dated 09-03-2005 the claim of the petitioner for release of the confiscated stocks was rejected on the ground that the appeal filed by the petitioner, being Criminal Appeal No.73 of 2003, was dismissed by the learned Principal Sessions Judge, Kadapa by the Judgment dated 02-07-2004 confirming the orders of the primary authority-1st respondent dated 19-04-2003.

The petitioner's house was inspected on 27-09-2002 and 96.04 quintals of rice in 175 gunny bags were seized on the ground that he had stored the rice contrary to the provisions of the Essential Commodities Act, 1955 (for short "the Act"). The seized stock was handed over for custody to a fair price shop dealer. Thereafter proceedings against the petitioner were initiated under Section 6-A of the Act by the 1st respondent and the 2nd respondent was authorized to take possession of the seized stock and dispose of the same through public distribution system to the cardholders and remit the sale proceeds and keep the same as a revenue deposit pending disposal of the proceedings under Section.6-A of the Act.

Some time later, the 1st respondent issued a notice to the petitioner under Section 6-B of the Act and thereafter by proceedings dated 19-04-2003 the 1st respondent ordered confiscation of 100% of the stocks. Aggrieved thereby the petitioner filed a Criminal Appeal.73 of 2003. The learned Principal Sessions Judge, Kadapa by the Judgment dated 02-07-2004 dismissed the appeal and confirmed the confiscation orders of the 1st respondent.

Meanwhile proceedings were initiated against the petitioner under Section 7(1) of the Act for contravention of the provisions of the Act and Control Orders there under. These proceedings were numbered as Calendar Case.46 of 2003 on the file of the Court of II Additional Judicial First Class Magistrate, Kadapa. By the judgment dated

28-07-2004 of the said Court, the petitioner was acquitted of the offence he was charged with in Calendar Case No.46 of 2003.

After his acquittal, the petitioner filed an application to return him the value of confiscated goods in view of his acquittal in C.C.No.46 of 2003. On this application of the petitioner, the impugned order was passed by the 1st respondent recording that the petitioner is not entitled to refund of the amounts realized on sale of the confiscated goods in view of the dismissal of Criminal Appeal No.73 of 2003.

Section.6-C (2) of the Act ordains *inter alia* that where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under Section 6-A, the person concerned is acquitted, and in either case it is not possible, for any reason to return the essential commodity seized, such person shall be paid the price therefore as if the essential commodity has been sold to the Government with reasonable interest from the day of the seizure of the essential commodity and that the price of the commodity shall be determined in the manner provided in Section.6-C. The learned Government Pleader is agreed that in view of the provision of Section.6-C(2) of the Act, the petitioner is entitled to refund of the value of the essential commodities seized from him and which was sold pending Sec.6-A proceedings in view of his acquittal in C.C.No.46 of 2003, if no appeal has been preferred against the judgment in C.C.No.46 of 2003 and in which an appellate Court had not suspended the order of acquittal.

In view of the legal position and submission of the learned Government pleader for Civil Supplies, the writ petition is allowed. The order of the 1st respondent bearing reference No.I(2)/3485/2005, dated 09-03-2005 is set aside. The 1st respondent shall forthwith pay to the petitioner the price of the commodity seized from him and which was sold pending Sec.6-A proceedings with reasonable interest from the date of seizure on the value of the commodity seized till the date of refund. Having regard to the facts and circumstances, interest is fixed @ 6% per annum and it shall be calculated from the date of seizure till the date of refund. The 1st respondent is however, at liberty not to refund the amount if an appeal/revision had been preferred against an order of acquittal and suspension of the judgment in C.C.No.46 of 2003 by such appellate/revisional Court has already been granted. As the order was passed by the 1st respondent in total disregard of the provisions of the Sec.6-C of the Act, this Court considers it appropriate to allow the writ petition with costs at

Rs.1,000/-(Rupees one thousand only) to the petitioner within four (4) weeks from the date of receipt of a copy of this Order.

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GODA RAGHURAM,J

29TH JUNE 2005

Note:

Issue CC in

Two days.

(B/O)

***TSNR**

TO

1 The Joint Collector, Kadapa,Kadapa district
2 The Mandal Revenue Officer, Pendlimarri Mandal, Kadapa district.

3. Two CCs to G.P for Civil Supplies, High Court Buildings, Hyderabad(OUT)

4. Two C.D.Copies.